

ALBUQUERQUE CRIMINAL LAWYER BLOG

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New Mexico Ignition Interlock Laws: A Model for Others?

New Mexico was the first state to require ignition interlock devices for first time DWI/DUI offenders. Numerous other states have since passed laws requiring the devices following a DWI/DUI conviction. New Mexico Senator Tom Udall has introduced federal legislation for the requirement of the installation of an ignition interlock device for a minimum period of 6 months for any DWI/DUI conviction, including first time DWI/DUI offenders,

Many first time DWI/DUI offenders in New Mexico believe that a conviction is required for imposition of the ignition interlock requirements. In fact, no conviction is necessary for the revocation of one's driver's license and the consequent ignition interlock requirement.

Upon arrest for DWI/DUI, the person arrested is facing two different proceedings, the criminal proceeding and the MVD administrative proceeding. The Motor Vehicle Division license revocation proceeding will come up long before the criminal proceeding has come to an end. These MVD license revocation hearings are almost a formality for the revocation of the alleged DWI/DUI offender's driving privileges. The burden of proof at these hearings is extremely low requiring only that the hearing be held within 90 days of arrest, that the stop be legal and that the person blew over .08 on the breath alcohol test.

For MVD license revocation and the ignition interlock requirement, it does not matter if the alleged DWI/DUI offender later wins at trial in the criminal proceeding or even if the criminal DWI/DUI case is dismissed. In short, unlike the legislation in other states and the federal legislation introduced by Senator Udall, no conviction is required for the revocation of the alleged offender's license and the imposition of the ignition interlock requirement.

The consequences of DWI/DUI arrest on a person's driving privileges are severe. The first time DWI/DUI carries a minimum driver's license revocation of 6 months. If the driver refuses the breath alcohol test, the minimum revocation through MVD is 1 year. Subsequent offenses carry 1 year MVD revocations. The MVD hearings and revocations are completely independent of the criminal case. This can result in the actual revocation and interlock requirement greatly exceeding the 6 months proposed by Senator Udall even on a first time DWI/DUI offense.

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The interaction of the MVD revocation and the revocation by the criminal court judge can be confusing. Likewise, the MVD imposed interlock requirements themselves can be both confusing and oppressive, particularly for those that do not own vehicles. These issues will be addressed in subsequent posts.

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